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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,933	03/10/2004	Jahangir S. Rastegar	10028	3287
7590	12/16/2005		EXAMINER	
Thomas Spinelli 2 Sipala Court East Northport, NY 11731			HARTMANN, GARY S	
			ART UNIT	PAPER NUMBER
			3671	
			DATE MAILED: 12/16/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,933	RASTEGAR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary Hartmann	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 16-20,22-26 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) 30-32 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 16-20,22 and 23 is/are rejected.
- 7) Claim(s) 24-26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumners (U.S. Patent 2,917,283) in view of Evans (U.S. Patent 2,075,892).

Sumners discloses a method of slowing a vehicle comprising providing a panel (13) and deploying it above a surface (Figure 4, for example). Only one panel is shown; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned two or more panels as claimed in order to be positioned on opposite sides of a railroad track, as taught by Evans. Note that this configuration would be less than the length of some vehicles.

Claims 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nasatka (U.S. Patent 4,893,119) in view of Evans (U.S. Patent 2,075,892).

Nasatka discloses a method of slowing a vehicle comprising providing a panel (14) and deploying it above a surface (abstract, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned two or more panels as claimed in order to be positioned on opposite sides of a railroad track, as taught by Evans. Note that this configuration would be less than the length of some vehicles.

Claims 16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (U.S. Patent 5,419,537) in view of Evans (U.S. Patent 2,075,892).

Thompson discloses a method comprising providing a panel (14, 16, 60) and deploying it above a surface (Figure 2, for example). Vehicles would inherently slow to cross this structure, since failure to do so would likely result in damage to the structure and/or the vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned two or more panels as claimed in order to be positioned on opposite sides of a railroad track, as taught by Evans. Note that this configuration would be less than the length of some vehicles.

#### ***Allowable Subject Matter***

Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed October 25, 2005 have been fully considered but they are not persuasive. The obviousness statement has been changed to specifically recite that the particular application is for positioning on both sides of a railroad track. There is sufficient teaching for one skilled in the art to have done this and, again, Evans provides teaching of this arrangement. Again, it is deemed that at least some vehicles (trucks with long or multiple trailers, for example)

could meet this recitation. A more precise definition of the distance would be required to overcome this rejection.

Note that Evans has been used as a teaching of panel positioning, not the panels themselves. It is within ordinary skill to have placed any of the primary references in the manner taught by Evans, as each of the primary references could perform its intended function when positioned in this manner. One skilled in the art could have been motivated to position the primary references in the manner of Evans and still be used for the individual purpose that each primary reference teaches. Therefore, the rejection stands.

Regarding the recitation of "engaging the vehicle in the direction," note that the direction is with respect to the direction of travel of the vehicle, not with respect to the orientation of the claimed apparatus. Even in the instances where the apparatus is designed to be mono-directional for use, it could still engage and, to at least some extent, slow the vehicle. Therefore, the rejection stands.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

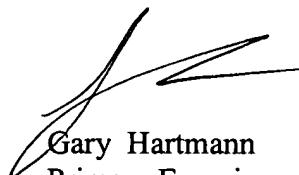
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gary Hartmann  
Primary Examiner  
Art Unit 3671